

SECOND REGULAR SESSION

# HOUSE BILL NO. 1392

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HOLAND AND DAVIS.

Pre-filed January 8, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3524L.011

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### AN ACT

To amend chapter 162, RSMo, by adding thereto fifteen new sections relating to school district tax surcharges, with penalty provisions for certain sections.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 162, RSMo, is amended by adding thereto fifteen new sections, to  
2 be known as sections 162.1150, 162.1152, 162.1154, 162.1156, 162.1158, 162.1160, 162.1162,  
3 162.1164, 162.1166, 162.1168, 162.1170, 162.1172, 162.1174, 162.1176 and 162.1178, to read  
4 as follows:

**162.1150. Sections 162.1150 to 162.1172 shall be known and may be cited as the**  
2 **"School District Income Tax Surcharge Act", and the following terms mean:**  
3       **(1) "Director of revenue", the director of revenue of the state of Missouri;**  
4       **(2) "Income tax", the tax imposed by chapter 143, RSMo;**  
5       **(3) "Residents of the district", persons residing in the school district; except, that**  
6 **if during a tax year a person moves from one district imposing a tax pursuant to sections**  
7 **162.1150 to 162.1172 to another district imposing a tax pursuant to sections 162.1150 to**  
8 **162.1172, the district in which the person resides on December thirty-first of such tax year**  
9 **shall be deemed to be the district of residence for such tax year for the purposes of sections**  
10 **162.1150 to 162.1172 and shall be credited with all the tax paid by such person pursuant**  
11 **to sections 162.1150 to 162.1172. An estate or trust shall be a "resident of the district" if:**  
12       **(a) In the case of a decedent, the decedent was at the time of death residing in the**  
13 **district;**  
14       **(b) In the case of a trust created by will of a decedent, the decedent was at the time**  
15 **of death residing in the district; and**  
16       **(c) In the case of a trust created by, or consisting of property of a person, the**

17 person was residing in the district on the date the trust or portion of the trust became  
18 irrevocable;

19 (4) "School board", the governing body of a school district;

20 (5) "School district" includes seven-director, urban, metropolitan school districts  
21 and special school districts.

162.1152. 1. Any school district, by a majority vote of its school board, may impose  
2 for the benefit of the school district a surcharge on the income tax of residents of the school  
3 district at the rate of either five or ten percent; provided that, no resolution or order  
4 enacted pursuant to this section shall be effective unless the school board of the district  
5 submits to the voters of the district, at a general or primary election, a proposal to  
6 authorize the school board of the school district to impose an income tax surcharge.

7 2. The question shall be submitted in substantially the following form:

8 Shall the ..... (School district's name) impose a school district-wide income tax  
9 surcharge of ..... (Insert amount) for a period not to exceed ..... (Insert number) years  
10 for the purpose of ..... (Insert educational purpose)?

11 ☐ YES

☐ NO

12  
13 If you are in favor of the question, place an "X" in the box opposite "YES". If you are  
14 opposed to the question, place an "X" in the box opposite "NO".

15 3. If a majority of the votes cast on the proposal is in favor of the proposal, then the  
16 surcharge on the income tax of residents of the district shall be imposed and shall take  
17 effect as provided in section 162.1154. If a majority of the votes cast by the qualified voters  
18 voting is opposed to the proposal, then the school board of the district shall have no power  
19 to impose the income tax surcharge as authorized pursuant to sections 162.1150 to 162.1172  
20 unless and until the school board shall again have submitted a proposal to authorize the  
21 imposition of the income tax surcharge pursuant to sections 162.1150 to 162.1172 and such  
22 proposal is approved by a majority of the qualified voters voting thereon. However, in no  
23 event shall a proposal for approval of an income tax surcharge be submitted to the voters  
24 pursuant to sections 162.1150 to 162.1172 sooner than ten months from the date of the last  
25 proposal submitted pursuant to sections 162.1150 to 162.1172 in the school district.

162.1154. Within ten days after the certification of the vote approving any  
2 resolution or order imposing an income tax surcharge by the voters of a school district, the  
3 secretary of the school board shall forward to the director of revenue a certified copy of  
4 the resolution or order of the school board. If notice of adoption of the income tax  
5 surcharge authorized by sections 162.1150 to 162.1172 is received by the director of  
6 revenue prior to July first of any calendar year, the tax shall become effective on January

7 first of the immediately succeeding calendar year. If notice of adoption of such tax  
8 surcharge is received by the director of revenue on or after July first of any calendar year,  
9 the tax shall become effective on January first of the second succeeding calendar year.

162.1156. On and after the effective date of any income tax surcharge imposed  
2 pursuant to sections 162.1150 to 162.1172, the director of revenue shall perform all  
3 functions incident to the administration, collection, enforcement, and operation of the  
4 income tax surcharge, and the director of revenue shall collect in addition to the income  
5 tax for the state of Missouri the additional income tax surcharge imposed pursuant to  
6 sections 162.1150 to 162.1172. The income tax surcharge imposed hereunder and the tax  
7 imposed pursuant to chapter 143, RSMo, shall be collected together and reported upon  
8 such forms and pursuant to such rules and regulations as may be prescribed by the  
9 director of revenue.

162.1158. The following provisions shall govern the collection by the director of  
2 revenue of the income tax surcharge imposed pursuant to sections 162.1150 to 162.1172:

3 (1) All applicable provisions contained in chapter 143, RSMo, governing the state  
4 income tax shall apply to the collection of the income tax surcharge imposed pursuant to  
5 sections 162.1150 to 162.1172, except as modified in sections 162.1150 to 162.1172;

6 (2) The income tax surcharge shall be imposed on the tax due pursuant to chapter  
7 143, RSMo, and shall be paid annually;

8 (3) The penalties provided in chapter 143, RSMo, for a violation of that chapter are  
9 hereby made applicable to violations of sections 162.1150 to 162.1172.

162.1160. 1. All school district income tax surcharges collected by the director of  
2 revenue pursuant to sections 162.1150 to 162.1172 on behalf of any school district, less one  
3 percent for cost of collection which shall be deposited in the state's general revenue fund  
4 after payment of premiums for surety bonds as provided in sections 162.1150 to 162.1172,  
5 shall be deposited by the director in a special trust fund which is hereby created to be  
6 known as the "School District Income Tax Surcharge Trust Fund". The moneys in such  
7 fund shall not be deemed to be state funds and shall not be commingled with any funds of  
8 the state. The director of revenue shall keep accurate records of the amount of money in  
9 the trust fund which was collected on behalf of each school district imposing an income tax  
10 surcharge, and the records shall be open to the inspection of officers of the school district  
11 and to the public. On or before June fifteenth of each year the director of revenue shall  
12 distribute to the treasurer of each school district imposing an income tax surcharge the  
13 amount in the fund due the school district. Districts shall deposit moneys from the trust  
14 fund in the teachers', incidental, or capital projects fund, at the discretion of the board.  
15 Such moneys may be transferred between such funds by the board. Such moneys shall not

16 be used for the determination of salary compliance.

17       2. The director of revenue may make refunds from amounts in the trust fund  
18 credited to the appropriate school district for erroneous payments and overpayments  
19 made, and may redeem dishonored checks and drafts deposited to the credit of a school  
20 district. After one year has elapsed after the effective period of the income tax surcharge  
21 in a school district, the director of revenue shall remit the balance in the account to the  
22 school district and close the account of that school district. Any refunds paid or checks  
23 redeemed after the close of the account of any school district shall be charged against the  
24 amounts payable to the school district pursuant to chapter 163, RSMo. The director of  
25 revenue shall notify each school district of each instance of any amount refunded or any  
26 check redeemed from receipts due the school district.

27       3. The director of revenue shall annually report on management of the trust fund  
28 and administration of such school district income tax surcharge. The director of revenue  
29 shall provide each school district imposing the tax authorized by sections 162.1150 to  
30 162.1172 with a detailed accounting of the source of all funds received for the school  
31 district. Notwithstanding any other provisions of law, the state auditor shall annually audit  
32 the trust fund. A copy of the director's report and annual audit shall be forwarded to each  
33 school district imposing the tax.

34       4. The director of revenue, and any deputies, assistants, and employees who have  
35 any duties or responsibilities in connection with the collection, deposit, transfer,  
36 transmittal, disbursement, safekeeping, accounting, or recording of funds which come into  
37 the hands of the director of revenue pursuant to sections 162.1150 to 162.1172, shall enter  
38 a surety bond or bonds payable to any and all school districts in whose behalf such funds  
39 have been collected pursuant to sections 162.1150 to 162.1172 in the amount of one  
40 hundred thousand dollars; but the director of revenue may enter into a blanket bond or  
41 bonds covering the director and all such deputies, assistants, and employees. The cost of  
42 the premium or premiums for the surety bond or bonds shall be paid by the director of  
43 revenue from the share of the collections retained by the director of revenue for the benefit  
44 of the state.

162.1162. 1. If, in any school district in which the income tax surcharge has been  
2 imposed, any person is delinquent in the payment of the amount required to be paid  
3 pursuant to sections 162.1150 to 162.1172, or in the event a determination has been made  
4 against such person for taxes and penalty pursuant to sections 162.1150 to 162.1172, the  
5 limitation for bringing suit for the assessment and collection of the delinquent tax and  
6 penalty shall be the same as that provided in chapter 143, RSMo. If the director of revenue  
7 determines that suit must be filed against any person for the collection of delinquent taxes

8 due the state pursuant to the state income tax law, and if such person is also delinquent in  
9 payment of the income tax surcharge pursuant to sections 162.1150 to 162.1172, the  
10 director of revenue shall notify the treasurer of the school district to which the delinquent  
11 income tax surcharge is due at least ten days before turning the case over to the attorney  
12 general. The school district, acting through its attorney, may join in such suit as a party  
13 plaintiff to seek a judgment for the delinquent income tax surcharge and penalty due the  
14 school district. In the event any person fails or refuses to pay the amount of any income  
15 tax surcharge due, the director of revenue shall promptly notify the treasurer of the school  
16 district to which the surcharge would be due so that appropriate action may be taken by  
17 the school district.

18 2. If property is seized by the director of revenue pursuant to any law authorizing  
19 seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by  
20 the state income tax law, and where such taxpayer is also delinquent in payment of any  
21 income tax surcharge imposed pursuant to sections 162.1150 to 162.1172, the director of  
22 revenue shall permit the school district to join in any sale of property to pay the delinquent  
23 taxes and penalties due the state and the surcharge due the school district. The proceeds  
24 from such sale shall first be applied to all sums due the state, and the remainder, if any,  
25 shall be applied to all sums due the school district.

162.1164. Unidentified moneys which have remained in the trust fund for a period  
2 of three years shall be distributed to each school district participating in the then current  
3 distribution of the identified moneys in the trust fund in the following manner: Each  
4 school district shall receive the same proportion of the unidentified funds that it receives  
5 of the identified funds.

162.1166. Moneys in the trust fund shall be invested by the director of revenue in  
2 the same deposits and obligations in which state funds are authorized by law to be invested,  
3 except that the deposits and obligations shall mature and become payable in time for  
4 distribution of the funds as provided by sections 162.1150 to 162.1172.

162.1168. The income tax surcharge imposed by sections 162.1150 to 162.1172 shall  
2 not apply to the tax on the income of corporations.

162.1170. The tax authorized by sections 162.1150 to 162.1172 shall terminate not  
2 more than three years from the date on which such tax was initially imposed by the school  
3 board, unless sooner abolished by the school board.

162.1172. No revenue received by a school district from the tax authorized pursuant  
2 to the provisions of sections 162.1150 to 162.1172 shall be included in calculating state aid  
3 pursuant to section 163.031, RSMo.

162.1174. 1. A majority of the school boards or one or more school boards with a

majority of the student population in any county may impose, by order, a sales tax on all retail sales of up to one cent, in one-eighth cent increments, for up to three years, made in such county which are subject to taxation pursuant to sections 144.010 to 144.510, RSMo. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no order imposing a sales tax pursuant to this section shall be effective unless there is submitted to the voters of the county, at a state general or primary election, a proposal to authorize the school boards to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the school districts of ..... (County name) impose a county-wide sales tax of ..... (Insert amount) for a period not to exceed ..... (Insert number) years for the purpose of ..... (Insert educational purpose)?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the order and any amendments thereto shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the school boards shall have no power to impose the sales tax authorized pursuant to this section unless and until the school boards shall again have submitted another proposal to authorize the imposition of the sales tax authorized by sections 162.1174 to 162.1178 and such proposal is approved by a majority of the qualified voters voting thereon.

3. All revenue received by the school districts from the tax authorized pursuant to sections 162.1174 to 162.1178 shall be deposited in special trust funds for each school district in the county based on the number of the school district's pupils resident in the county and shall be used by the school districts solely for the purpose described in the ballot for so long as the tax shall remain in effect. Once the tax authorized by sections 162.1174 to 162.1178 is abolished or is terminated by any means, all funds remaining in the special trust funds shall be used solely for activities initiated with revenues raised by the tax authorized by sections 162.1174 to 162.1178. Any funds in such special trust funds which are not needed for current expenditures may be invested by the school boards in accordance with applicable laws relating to the investment of other school funds.

38           **4. The tax authorized by sections 162.1174 to 162.1178 shall terminate not more**  
39 **than three years from the date on which such tax was initially imposed by the school**  
40 **boards, unless sooner abolished by the school boards.**

**162.1176. 1. All sales taxes collected by the director of revenue pursuant to sections**  
2 **162.1174 to 162.1178 on behalf of any school district, less one percent for cost of collection**  
3 **which shall be deposited in the state's general revenue fund after payment of premiums for**  
4 **surety bonds as provided in section 32.087, RSMo, shall be deposited with the state**  
5 **treasurer in a special trust fund, which is hereby created, to be known as the "School**  
6 **District Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be**  
7 **state funds and shall not be commingled with any funds of the state. The director of**  
8 **revenue shall keep accurate records of the amount of money in the trust fund which was**  
9 **collected in each school district imposing a sales tax pursuant to sections 162.1174 to**  
10 **162.1178, and the records shall be open to the inspection of officers of the county and the**  
11 **public. Not later than the tenth day of each month, the director of revenue shall distribute**  
12 **all moneys deposited in the trust fund during the preceding month to the school district**  
13 **which levied the tax. Such funds shall be deposited with the treasurer of each such school**  
14 **district, and all expenditures of funds arising from the trust fund shall be by an**  
15 **appropriation act to be enacted by the school board. Districts shall deposit moneys from**  
16 **the trust fund in the teachers', incidental, or capital projects fund, at the discretion of the**  
17 **board. Such moneys may be transferred between such funds by the board. Such moneys**  
18 **shall not be used for the determination of salary compliance.**

19           **2. The director of revenue may authorize the state treasurer to make refunds from**  
20 **the amounts in the trust fund and credited to any school district for erroneous payments**  
21 **and overpayments made, and may redeem dishonored checks and drafts deposited to the**  
22 **credit of such school districts. If any school district abolishes the tax, the school board**  
23 **shall notify the director of revenue of the action at least ninety days prior to the effective**  
24 **date of the repeal and the director of revenue may order retention in the trust fund, for a**  
25 **period of one year, of two percent of the amount collected after receipt of such notice to**  
26 **cover possible refunds or overpayment of the tax and to redeem dishonored checks and**  
27 **drafts deposited to the credit of such accounts. After one year has elapsed after the**  
28 **effective date of abolition of the tax in such school district, the director of revenue shall**  
29 **authorize the state treasurer to remit the balance in the account to the school district and**  
30 **close the account of that school district. The director of revenue shall notify each school**  
31 **district of each instance of any amount refunded or any check redeemed from receipts due**  
32 **the school district.**

33           **3. Except as modified in sections 162.1174 to 162.1178, all provisions of sections**

34 **32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to sections 162.1174 to**  
35 **162.1178.**

**162.1178. No revenue received by a school district from the tax authorized pursuant**  
2 **to sections 162.1174 to 162.1178 shall be included in calculating state aid pursuant to**  
3 **section 163.031, RSMo.**